

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

----- X  
DAQUAN DRUMMOND,

Petitioner,

-against-

RAYMOND J. CUNNINGHAM,  
Superintendent, Woodbourne Correctional  
Facility

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

08-CV-4290 (KAM)(RLM)

Respondent.

----- X

**MATSUMOTO, United States District Judge:**

Petitioner Daquan Drummond brought this *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his 2001 convictions in New York Supreme Court, Kings County, for attempted murder in the second degree and criminal possession of a weapon in the second degree. (*See generally* ECF No. 1, Petition for Writ of Habeas Corpus.) Specifically, petitioner contends that the state court trial judge violated his rights under the Confrontation Clause of the Sixth Amendment to the United States Constitution by permitting the prosecutor to present videotaped grand jury testimony of the victim in lieu of live testimony and by precluding impeachment on the substance of those statements. Presently before the court is a Report and Recommendation ("R&R") issued by Magistrate Judge Mann on December 13, 2010, recommending that this court deny the petition. (ECF No. 10, R&R, at 1.)

Notice of the Report and Recommendation was sent

electronically to the parties appearing in the docket via the court's electronic filing system on December 13, 2010. The court mailed a copy of the Report and Recommendation to petitioner on December 13, 2010. (See Docket Entry for ECF No. 10.)

As explicitly noted at the end of the Report and Recommendation, any objections to the Report and Recommendation were to be filed by January 3, 2011. (ECF No. 10, R&R, at 26.) The statutory period for filing objections has expired, and no objections to Magistrate Judge Mann's Report and Recommendation have been filed.

In reviewing a Report and Recommendation, the district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). Where no objection to the Report and Recommendation has been filed, the district court "need only satisfy itself that that there is no clear error on the face of the record." *Urena v. New York*, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (quoting *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)).

Upon a review of the Report and Recommendation, and considering that the parties have failed to object to any of Magistrate Judge Mann's thorough and well-reasoned recommendations, the court finds no clear error in Magistrate Judge Mann's Report and Recommendation and hereby affirms and

adopts the Report and Recommendation as the opinion of the court.

Counsel for respondent shall serve a copy of this Memorandum and Order upon petitioner and file a declaration of service by January 19, 2011. The Clerk of the Court is respectfully requested to enter judgment in favor of respondent and to close the case.

Pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure and 28 U.S.C. § 2253(c)(2), a certificate of appealability will not issue because petitioner has not made a "substantial showing" of a denial of a constitutional right. See *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003). Petitioner has a right to seek a certificate of appealability from the United States Court of Appeals for the Second Circuit. See 28 U.S.C. § 2253. Any notice of appeal to the Second Circuit must be filed with the district court clerk within 30 days after the judgment is entered. Fed. R. App. P. 4.

**SO ORDERED.**

Dated: January 17, 2011  
Brooklyn, New York

\_\_\_\_\_/s/\_\_\_\_\_  
Kiyo A. Matsumoto  
United States District Judge